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ORDER

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recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After conducting a *de novo* review as to objections made, and considering the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff's objections, the court agrees with the conclusions of the Magistrate Judge. When a plaintiff fails to exhaust his or her administrative remedies prior to filing a lawsuit, the case must be dismissed. Pursuant to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this Title, or any other federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Thus, Congress has mandated exhaustion regardless of the relief offered through administrative procedures. *Booth v. Churner*, 532 U.S. 731, 741 (2001); *see also Porter v. Nussle*, 534 U.S. 516 (2002). Accordingly, before Plaintiff may proceed on his claims in this Court, he must first have exhausted the administrative remedies that were available to him at the prison. The Record demonstrates that Plaintiff has not done so. The numerous filings in this case have been reviewed *de novo* by this Court and the sizable Record shows that Plaintiff either did not properly pursue a grievance concerning the issues raised in this case prior to filing this lawsuit, or he did not even file his grievances until after the lawsuit had already commenced. As a result, the Defendants are entitled to summary judgment on Plaintiff's claims. *Cf. Hyde v. South Carolina Dep't of Mental Health*, 442 S.E.2d 582, 583 (1994) (stating that "[w]here an adequate administrative remedy is available to determine a question of fact, one must pursue the administrative remedy or be precluded from seeking relief in the courts").

Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Petitioner offers no argument which convinces this court that the Magistrate Judge erred in his analysis. Therefore, the Defendants' motion for summary judgment is **granted** and the case is dismissed *without prejudice* due to Plaintiff's failure to exhaust his administrative remedies. Docket entries 58, 112, 115, and 118 are mooted by this Order.

AND IT IS SO ORDERED.


Richard Mark Gergel
United States District Court Judge

October 27, 2010
Charleston, South Carolina